

# Exhibit A



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Cynthia Arato is a Partner in the New York Office of Gibson, Dunn & Crutcher. Her practice is focused on intellectual property, media and entertainment and commercial and civil litigation. Ms. Arato has successfully represented major corporations and prominent individuals in copyright, trademark, defamation, right of publicity, false advertising, employment, contract, fraud, fiduciary duty and royalty actions. Ms. Arato regularly advises clients on a wide range of intellectual property matters, including trademark and right of publicity issues related to advertisements and products. *The Legal 500 US: Volume III (Litigation)* named Ms. Arato one of the leading trial lawyers in the US in 2007.

Before joining Gibson Dunn, Ms. Arato was a partner at Manatt, Phelps & Phillips, which merged with the leading boutique litigation firm Parcher, Hayes & Snyder, where Ms. Arato was also a partner. Ms. Arato presents courses on copyright law for continuing legal education programs and clients.

Ms. Arato's clients include entertainment and media companies, major record companies, and artists and writers in the entertainment industry. She has represented, among others, Warner Music Group, Frank McCourt, Atlantic Records, SONY BMG MUSIC ENTERTAINMENT, Elektra Entertainment, Home Box Office, Scholastic, and Warner Bros. Records. She also has represented the Select Committee of Inquiry formed by the House of Representatives in Connecticut in connection with impeachment proceedings related to Governor John G. Rowland.

Ms. Arato earned her JD in 1991 from Columbia University, where she was a Harlan Fiske Stone Scholar from 1988-1991 and the Managing Editor of the *Columbia Journal of Transnational Law* from 1990-1991. She earned her BA from the University of Pennsylvania, *cum laude* and with distinction in International Relations, in 1986.

Ms. Arato is admitted to practice in New York, the District of Columbia, California and the United States Court of Appeals for the First, Second, Fifth, Ninth and Federal Circuits. She is also admitted to practice in the U.S. District Court for the Southern and Eastern Districts of New York and for Central, Northern, Southern and Eastern Districts of California.

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**Representative Cases Handled by Cynthia Arato:**

- ▶ ***Famous Music LLC, et. al. v. XM Satellite Radio, Inc.*** (S.D.N.Y.) Represent major music publishers in copyright infringement class action challenging service provided by XM that allows end-users to record and permanently store, on portable ipod-like devices, content broadcast by XM.
- ▶ ***Euro Tec Enterprises, Inc. v. Apple Computer, Inc. et al.*** (C.D. Cal.) Represented major digital service providers and record labels in putative copyright infringement class action challenging exploitation of musical compositions contained in sound recordings being sold as digital downloads. Plaintiffs voluntarily dismissed the case after limited discovery.
- ▶ ***Ajilon Professional Staffing, LLC v. Solomon-Page Group, LLC.*** (S.D.N.Y) Successfully represented plaintiff in obtaining temporary restraining order against former employees and employees' new employer in trade secret misappropriation and breach of contract action.
- ▶ ***Do Something Trademark Dispute.*** Represented not-for-profit in trademark dispute against competing not-for-profit using confusingly similar name. Successfully resolved the dispute pre-litigation in settlement that included, among other things, agreement by competing organization to cease use of confusingly similar name.
- ▶ ***Armour v. Knowles***, 512 F. 3d 147, (5th Cir. 2007). Successfully represented defendants in appeal of copyright infringement action. Obtained affirmance of lower court ruling on alternative ground of "access" not relied upon by court below. Ruling emphasized the propriety of dismissing infringement actions that are based on speculative theories of "access."
- ▶ ***Johnson v. Gordon***, 409 F.3d 12 (1st Cir. 2005). Obtained summary judgment in favor of defendants in copyright infringement action, and affirmance of judgment on appeal, based upon expert musicological discovery demonstrating that works at issue were not substantially similar as a matter of law.
- ▶ ***Office of the Governor of Connecticut v. The Select Committee of Inquiry***, 269 Conn. 850, 850 A.2d 181 (2004). Defended legislative committee before highest state court in Connecticut in case of first impression throughout the United States regarding right of legislative committee to subpoena testimony of sitting Executive. Successfully defeated the Office of the Governor's attempt to quash subpoena served by committee. Also successfully represented committee in connection with various litigations regarding validity of subpoenas served on third parties.

- ▶ ***PlusFunds Group, Inc. v. OTC, Inc.*** Represented Plaintiff in trade secret misappropriation claim against firm providing computer consulting services to a financial services firm. The case was successfully resolved after the entry of a temporary restraining order against defendants.
- ▶ ***TVT v. Sony BMG Music Entertainment.*** (C.D. Cal.) Represented Sony BMG in tortious interference and copyright infringement claims relating to guest artist performances by the artist known as "Lil Jon" and the company's exploitation of numerous songs co-owned by TVT. Case was successfully resolved.
- ▶ ***Keifer v. Sony Music Entertainment, Inc.***, 778 NYS2d 496 (1st Dep't 2004). Represented record company in contract action alleging breach of covenant of the covenant of good faith and fair dealing and fraud. Obtained dismissal of action on early motion for summary judgment, which dismissal was affirmed on appeal.
- ▶ ***Houlihan v. Frank McCourt***, 2002 WL 1759822 (H.D.Ill. 2002). Obtained summary judgment for author in action brought by producer seeking percentage of profits from Pulitzer Prize winning book and feature film "Angela's Ashes."
- ▶ ***South v. Robert Ritchie a/k/a Kid Rock*** (Wayne County, Mich. Cir. Ct.). Defended record company and artist in action brought by artist's ex-girlfriend for defamation and invasion of privacy arising from song on multi-platinum album. Case was successfully resolved after Defendants filed a summary judgment motion.
- ▶ ***Dimmie v. Mariah Carey***, 88 F.Supp.2d 142 (S.D.N.Y. 2000). Defended popular recording artist and record label in copyright infringement action concerning Carey's #1 hit song "Hero." The case was dismissed on a motion for summary judgment.
- ▶ ***Cerasani v. Sony Pictures Entertainment***, 991 F.Supp. 343 (S.D.N.Y. 1998). Defended motion picture company in defamation and right of publicity case brought by individual depicted in the feature film "Donnie Brasco." In a widely publicized decision that was the subject of a front-page story in *The New York Law Journal*, the court granted defendant's motion to dismiss the complaint on the ground that the plaintiff was "libel proof" as a matter of law.
- ▶ ***Abdul-Jabbar v. General Motors Corp.***, 75 F.3d 1391 (9th Cir. 1996), as amended, 85 F.3d 407. Represented Kareem Abdul-Jabbar in successfully appealing dismissal of his Lanham Act and right of publicity claims concerning the use of his former name Lew Alcindor in a television commercial. In case of first impression, the Ninth Circuit held that an individual cannot abandon trademark or publicity rights in his or her own name.

- ▶ **Hunts Point Produce Cooperative v. NYC EDC**, (2006 Bronx. Co.) (Billings J.). Won bench trial voiding City's award of major leasehold, reversed on appeal on standing grounds. Won ruling that City's Business Integrity Commission was failing to comply with its mandatory statutory duties, in mandamus proceeding against City agency.



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Gabrielle Levin is an associate in the New York office of Gibson, Dunn & Crutcher. She is a member of the firm's Litigation Department.

Ms. Levin graduated from the University of Pennsylvania Law School in 2006, where she was an Editor of the Law Review, and received her bachelor of arts in Political Science from the University of Pennsylvania in 2002.

Ms. Levin is a member of the firm's Diversity Committee. She is admitted to practice in the United States District Court for the Southern District of New York and the states of New York and Connecticut.

Publications and Honors:

- ▶ "Misappropriation of Goodwill," 5 *Wake Forest Intellectual Property Law Journal* 89 (June 2005)
- ▶ "Desperate Times, Desperate Measures? Reconceptualizing Ex Parte Seizure Orders to More Effectively Fight the War on Trademark Counterfeiting," 14 *University of Baltimore Intellectual Property Law Journal* 171 (2006); Second Place Winner, 2006 Ladas Memorial Award (presented by the International Trademark Association to the year's best papers in the area of trademark law).

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